

INTERAGENCY MEMORANDUM OF UNDERSTANDING

This Interagency Memorandum of Understanding is entered into on this _____ day of _____, 2001, by and between the CITY OF LINCOLN DEPARTMENT OF PUBLIC WORKS & UTILITIES (Public Works) and the CITY OF LINCOLN, d/b/a LINCOLN ELECTRIC SYSTEM (LES), both agencies of the City of Lincoln, Nebraska:

RECITALS

I.

LES is presently under contract for the construction of a gas-fired electric generating station designated as the Salt Valley Generating Station (SVGS). The SVGS site is located northeast of downtown Lincoln, Nebraska at 7707 Bluff Road, and is assessable via Bluff Road from 56th Street off of Interstate Highway 80.

Phase I of SVGS consists of the construction and installation of three combustion turbines with two of the combustion turbines to be operated in a combined cycle mode. Anticipated start-up of the first two combustion turbines will be on or about April 1, 2003, and thereafter to be operational in combined cycle mode on or about November 1, 2003. The third combustion turbine has an anticipated start-up date of April 1, 2004. The ultimate generating station capacity, after all phases of construction, is planned at 600 megawatts of electricity.

II.

The operation of said combustion turbines and combined cycle system requires an assured source of water for cooling and other associated plant water requirements, and it has been determined that treated wastewater effluent is an acceptable form of water to use for these purposes. For purposes of this Agreement, "treated wastewater effluent" shall mean wastewater that has been

treated in accordance with applicable State D.E.Q. and E.P.A. regulations so as to permit its discharge into navigable waters.

III.

The Northeast Wastewater Treatment Facility (NWWTF) located at 7000 North 70th Street and operated by Public Works is currently designed to process an average flow of eight million gallons per day (mgd) of treated wastewater effluent before it is discharged into Salt Creek. Such quantities of treated wastewater effluent meet or exceed the needs of LES as a source of water for the SVGS plant, and LES and Public Works are now desirous of entering into a formal Interagency Memorandum of Understanding regarding the provision of effluent by Public Works to LES and related matters.

NOW, THEREFORE, the agencies agree as follows:

1. Provision of Treated Wastewater Effluent. Public Works does hereby agree to provide and make available to LES such amounts of treated wastewater effluent from the NWWTF as LES may need for use at the SVGS for cooling and other associated plant water requirements. Commencing on or before April 1, 2003, Public Works will make available for Phase I of SVGS not less than 2,000,000 gallons per day of treated wastewater effluent with an average yearly demand of approximately 175,000,000. It is understood and agreed that the availability of such treated wastewater effluent is dependent upon normal generation thereof by the NWWTF and that Public Works, by this agreement, is making no guarantees of levels of generation of treated wastewater effluent or of continued operation of the NWWTF.

Provision of such effluent from the NWWTF for use in subsequent phases of SVGS will be generally in accordance with this Memorandum, but will be subject to review by the parties regarding the need to treat SVGS discharge return to the NWWTF and other related matters.

LES shall not be obligated to accept any minimum amounts of treated wastewater effluent under this Memorandum.

2. Adoption of PDOM. Attached hereto, marked as Attachment A, and made a part hereof by reference is a document "Lincoln Electric System Salt Valley Generating Station B Water Supply and Wastewater Discharge Systems B Principles of Design, Operation, and Maintenance" (PDOM), developed by Burns & McDonnell Engineers of Kansas City, Missouri. Public works and LES hereby adopt the PDOM as the guideline for designing, constructing, operating, and maintaining the facilities necessary to provide the necessary treated wastewater effluent to SVGS and to return the discharge therefrom to the NWWTF.

3. Construction Costs. All costs relating to design, construction, and operation of the treated wastewater effluent supply and return wastewater discharge systems to serve SVGS, including, but not limited to, the makeup water storage tank, wastewater pond, wastewater discharge pumps, plant BOP computer, connecting pipelines, wastewater supply pumps, pump, wet well, and valve vault structure, electrical equipment building, electrical switchgear, TDS and other analyzers (as required), and PLC based control system shall be borne by LES.

4. Maintenance. LES will maintain all of the SVGS related treated wastewater effluent supply and return wastewater discharge system equipment at the NWWTF and at the SVGS. LES will be provided access to the NWWTF property when it is unmanned.

5. NPDES Permit. It is understood that LES may apply for an NPDES discharge permit to allow direct discharge of return effluent into Salt Creek in the event that the NWWTF is unable to accept return flows for an extended period of time, provided, however, LES agrees that any such direct discharge shall be outside of the NWWTF "mixing zone" as defined by state and federal regulations.

6. Pretreatment. LES agrees, at its own cost and expense, to provide pretreatment of return effluent from SVGS determined to be necessary to meet any current or future Environmental Protection Agency or Nebraska Department of Environmental Quality standard for waste being discharged into a public wastewater system.

7. Potable Water to SVGS. Public Works agrees that water from the Lincoln Water System will be made available to the site of SVGS for general, domestic, and potable water use upon application for a water use permit to the Lincoln Water System. Furthermore, should treated wastewater effluent for any reason not be available for use in Phase I or any future phase of SVGS, Public Works shall permit LES to purchase additional water from the Lincoln Water System for the volumes required for cooling. LES agrees to pay to the Lincoln Water System the cost of all city water so provided at the applicable rate for nonresidential property as currently adopted or as may in the future be adopted by resolution of the City Council of the City of Lincoln. The cost of construction of necessary supply and service pipes or mains to serve the SVGS site shall be borne by LES except to the extent that any such pipes or mains are, in consultation with Public Works, oversized to provide present or future service in addition to SVGS.

8. Wastewater Discharge: Rate. LES agrees to pay to Public Works for all return effluent discharge to the Northeast Wastewater Treatment Plant at the then applicable nonresidential wastewater rate for other similar users. LES shall, at its own cost and expense, install a wastewater flow meter or other wastewater measuring device, approved by the Director of Public Works, to measure the volume of return effluent discharge into the Northeast Wastewater Treatment Plant. The wastewater use charge to be charged LES shall be computed thereon at the basic wastewater use unit charge as adopted by the City of Lincoln.

9. Cost of Effluent to LES. Public Works shall not charge LES for the effluent to be provided by Public Works to LES under this agreement for Phase I of the SVGS. However, in the event that Phase II of SVGS requires an increase in the amount of the effluent beyond the levels to be provided hereunder for Phase I, then, if it is demonstrated that treated wastewater effluent has a nongovernmental commercial value in the Lincoln market, the parties shall negotiate a price for all effluent then required for SVGS, but in no event shall such price exceed the rate for an equal amount of city water at the water rate agreed to in paragraph 7 above. Such price, as it relates to the needs for Phase I, shall give due consideration to the value of the SVGS project to Public Works and the value of the investment that LES has made or will make to utilize treated wastewater effluent as opposed to other sources of cooling water.

10. Amendment. This Memorandum may be amended by written amendment executed by both agencies.

11. Reliance: Noncancellation. It is understood and agreed between the parties that LES may rely upon this agreement and refer to the same in bond covenants related to the issuance of any bonds of LES issued for the purpose of financing or refinancing the construction of SVGS. The parties hereto agree that this agreement shall continue in effect for an indefinite period and may not be terminated except upon mutual agreement of the agencies hereto, or in the event that either the Northeast Wastewater Treatment Plant or SVGS ceases operation, or in the event the agreement becomes illegal under state or federal law.

12. This agreement shall be binding upon the agencies that are parties hereto, and any successors in interest, whether public or private.

IN WITNESS WHEREOF, the parties have executed this Interagency Memorandum of Understanding as of the day and year first written above.

CITY OF LINCOLN, NEBRASKA,
PUBLIC WORKS & UTILITIES

By: _____

CITY OF LINCOLN, NEBRASKA,
d/b/a LINCOLN ELECTRIC SYSTEM

By: _____